

# **EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

HARRY SMITH, JR. and ROSLYN )  
WOODARD SMITH, Individually and as )  
Administrators of THE ESTATE OF HARRY )  
SMITH, III )

Plaintiffs,

v.

JOHN CIRITELLA, THOMAS DEMPSEY, )  
and MATTHEW KURTEN, )

Defendants. )

Case No. 04-1254-GMS

**VERDICT FORM**

**The Constitutional Claims**

1. Do you find by a preponderance of the evidence that any of the defendants used excessive force and deprived Harry Smith, III of his rights under the United States Constitution or the Delaware Constitution?

YES \_\_\_\_\_

NO \_\_\_\_\_

**Instruction:**

**If your answer is "Yes," go to questions 2 and 3.**

**If your answer is "No," go to question 4, do not answer questions 2 and 3.**

2. Which of the defendants do you find used excessive force and deprived Harry Smith, III of his constitutional rights?

John Ciritella YES \_\_\_\_\_

NO \_\_\_\_\_

Thomas Dempsey YES \_\_\_\_\_

NO \_\_\_\_\_

Matthew Kurten YES \_\_\_\_\_

NO \_\_\_\_\_

- 3 . State the amount you award to the Estate on behalf of Harry Smith, III.

\$ \_\_\_\_\_

**Instruction: Go to question 4.**

**The State Law Claim For Wrongful Death**

- 4 . Do you find by a preponderance of the evidence that any of the defendants wrongfully caused the death of Harry Smith, III?

John Ciritella      YES \_\_\_\_\_      NO \_\_\_\_\_

Thomas Dempsey      YES \_\_\_\_\_      NO \_\_\_\_\_

Matthew Kurten      YES \_\_\_\_\_      NO \_\_\_\_\_

**Instruction:**

**If you answered "Yes," to any of the above, go to question 5.**

**If you answered "No" to all of the above you are finished. Do not answer the remaining questions.**

- 5 . For each defendant for whom you checked "YES" in response to the previous question, do you find by a preponderance of the evidence this defendant acted with wanton negligence or willful and malicious intent.

John Ciritella      YES \_\_\_\_\_      NO \_\_\_\_\_      NOT APPLICABLE \_\_\_\_\_

Thomas Dempsey      YES \_\_\_\_\_      NO \_\_\_\_\_      NOT APPLICABLE \_\_\_\_\_

Matthew Kurten      YES \_\_\_\_\_      NO \_\_\_\_\_      NOT APPLICABLE \_\_\_\_\_

**Instruction:**

**If you answered "Yes" to any defendant, go to question 6.**

**If you answered "No" or "Not Applicable" you are finished. Do not answer the remaining questions.**

- 6 . For each defendant for whom you checked "YES" in response to the previous question, do you find this defendant used excessive force and acted wantonly or with willful and malicious intent?

John Ciritella YES \_\_\_\_\_ NO \_\_\_\_\_ NOT APPLICABLE \_\_\_\_\_

Thomas Dempsey YES \_\_\_\_\_ NO \_\_\_\_\_ NOT APPLICABLE \_\_\_\_\_

Matthew Kurten YES \_\_\_\_\_ NO \_\_\_\_\_ NOT APPLICABLE \_\_\_\_\_

**Instruction:**

**If you answered "Yes" to any of the above, go to question 7.**

**If you answered "No" or "Not Applicable" to all of the above, you are finished.**

- 7 . State the amount you award to Harry Smith, Jr. and Roslyn Woodward Smith.

\$ \_\_\_\_\_

Signed this \_\_\_\_ day of April, 2007

\_\_\_\_\_  
Jury Foreperson